

June 2016

Summary of IDEM Rulemakings

## Notices and Continuations

---

### Title 326 Air Pollution Control Division

**Rulemaking Action:** Cross-State Air Pollution Rule and Clean Air Interstate Rule Repeal- [LSA Document #16-209](#)

**Purpose:** **First Notice of Comment Period**

Amends 326 IAC 24 and 326 IAC 26-1-5 concerning the federal Cross-State Air Pollution Rule (CSAPR) published by the United States Environmental Protection Agency (U.S. EPA) on August 8, 2011 (76 FR 48208), and the proposed CSAPR Update Rule for the 2008 ozone National Ambient Air Quality Standards published on December 3, 2015 (80 FR 75706). This rulemaking will also repeal the Clean Air Interstate Rule at 326 IAC 24-1, 326 IAC 24-2, and 326 IAC 24-3.

**Background:** The U.S. EPA finalized a rule on August 8, 2011 (76 FR 48208) that requires states to reduce air pollution and attain clean air standards by reducing power plant emissions that contribute to ozone or fine particle (PM<sub>2.5</sub>) pollution in other states, otherwise known as the Cross-State Air Pollution Rule (CSAPR). IDEM proposes adoption of the three trading programs under CSAPR (Transport Rule Annual NO<sub>x</sub> Trading Program, Transport Rule Ozone Season NO<sub>x</sub> Trading Program, and Transport Rule Group 1 SO<sub>2</sub> Trading Program) into new state rules at 326 IAC 24-5, 326 IAC 24-6, and 326 IAC 24-7. IDEM has initiated a separate rulemaking to address the non-EGUs that were part of a prior good neighbor rule, the NO<sub>x</sub> SIP Call, and CAIR. This separate rulemaking also proposed to repeal the CAIR rules at 326 IAC 24-1, 326 IAC 24-2 and 326 IAC 24-3 and replace a reference to CAIR in the Regional Haze rule at 326 IAC 26. Currently CAIR participation by electric generating units satisfies the SO<sub>2</sub> and NO<sub>x</sub> requirements of the Regional Haze rule. IDEM is proposing to repeal CAIR and replace the reference to CAIR in the Regional Haze rule with a reference to CSAPR within this rulemaking instead and once IDEM proceeds to the second notice of public comment period for LSA Document #15-414, IDEM will revise that notice to indicate that the repeal of CAIR rules will be addressed in this rulemaking.

**History:** First Notice of Comment Period: June 1, 2016

**Inquiries:** All comments must be postmarked, faxed, or time stamped not later than July 1, 2016. Hand-delivered comments must be delivered to the appropriate office by 4:45 p.m. on the above-listed deadline date.

Additional information regarding this rulemaking action can be obtained from Lauren Aguilar, Rules Development Branch, Office of Legal Counsel, (317) 234-8559, (800) 451-6027 (in Indiana), or [laguilar@idem.in.gov](mailto:laguilar@idem.in.gov).

**Next Step:** Second Notice of Comment Period

## Title 327 Water Pollution Control Division

**Rulemaking Action:** CAFO and CFO Reference Update - [LSA Document #16-3](#)

**Purpose:** **Notice of Public Hearing/Final Adoption**

This proposed rule amends 327 IAC 15-16 and 327 IAC 19, concerning concentrated animal feeding operations (CAFO) and confined feeding operations (CFO), to:

- update references to the Indiana Natural Resources Conservation Service (NRCS) Nutrient Management Conservation Practice Standards Codes 313, 360, 521A, 521B, 521C, 590, 633, and 656, and the construction specification for concrete construction;
- update the Code of Federal Regulations (CFR) incorporated into the rules to the 2014 edition;
- correct formatting, typographical errors, and references to websites.

**Background:** Many of the updated NRCS standards are already in use by the regulated community. IDEM reached out to a cross section of stakeholders and, based on the information gathered, there is no appreciable difference in cost to a regulated entity to use the newly updated standards. However, currently in order to use them a variance must be granted, and this comes at a cost. Updating the standards in the rule eliminates this burdensome and time consuming administrative process resulting in a savings to the regulated community and IDEM.

|                 |  |                  |
|-----------------|--|------------------|
| <b>History:</b> | First Notice of Comment Period:            | January 20, 2016 |
|                 | Notice of First Hearing:                   | January 20, 2016 |
|                 | Preliminary Adoption/First Public Hearing: | May 11, 2016     |
|                 | Notice of Second Hearing/Final Adoption:   | June 1, 2016     |

**Inquiries:** Additional information regarding this rulemaking action can be obtained from Lauren Aguilar, Rules Development Branch, Office of Legal Counsel, (317) 234-8559, (800) 451-6027 (toll-free), or [laguilar@idem.in.gov](mailto:laguilar@idem.in.gov).

**Next Step:** **Public Hearing/Final Adoption**

Final Adoption/Public Hearing tentatively scheduled for November 9, 2016 at 1:30 p.m., at the Indiana Government Center South, 302 West Washington Street, Conference Center Room A, Indianapolis, Indiana.

## Title 329 Solid Waste Management Division

**Rulemaking Action:** Coal Combustion Residuals - [LSA Document #16-217](#)

**Purpose:** **Notice of Public Hearing**

Amends 329 IAC 10-3-1 and 329 IAC 10-9-1 to incorporate by reference the federal requirements for the operation and closure of a coal combustion residuals (CCR) impoundment found at 40 CFR 257, Subpart D. This rulemaking will bring Indiana law into conformity with federal requirements for the operation and closure of a CCR impoundment.

**Background:** This rule addresses the operation of any coal combustion residuals (CCR) impoundment operated by electric utilities or independent power producers subject to new federal regulations found at 40 CFR 257, Subpart D, promulgated by the United States Environmental Protection Agency (U.S. EPA), that became effective October 19, 2015. This rule is a companion to the emergency rule, LSA Document #16-88(E), passed by the Environmental Rules Board on February 10, 2016.

**History:** First Hearing/Adoption August 10, 2016

**Inquiries:** Additional information regarding this rulemaking action can be obtained from Lauren Aguilar, Rules Development Branch, Office of Legal Counsel, (317) 234-8559, (800) 451-6027 (toll-free), or [laguilar@idem.in.gov](mailto:laguilar@idem.in.gov).

**Next Step:** **Preliminary Adoption/ Public Hearing**  
Preliminary adoption and public hearing tentatively scheduled for August 10, 2016 at 1:30 p.m., at the Indiana Government Center South, 302 West Washington Street, Conference Center Room 22, Indianapolis, Indiana.

## **Proposed Rules (and Readoptions)**

---

Title 327 Water Pollution Control Division

**Rulemaking Action:** CAFO and CFO Reference Update - [LSA Document #16-3](#)

**Purpose:** **Proposed Rule/Notice of Third Comment Period**  
This proposed rule amends 327 IAC 15-16 and 327 IAC 19, concerning concentrated animal feeding operations (CAFO) and confined feeding operations (CFO).

**Background:** Portions of this proposed rule are substantively different from the draft rule published on January 20, 2016, at 20160120-IR-327160003FDA. The Indiana Department of Environmental Management (IDEM) is requesting comment on the following portions of the proposed (preliminarily adopted) rule that are substantively different from the language contained in the draft rule. Most of the portions of the proposed rule that are different from the language contained in the draft rule are not substantive differences. The changes made were technical, formatting and typographical in nature. However, because additional sections were included to make these changes, IDEM is requesting public comment on them. One additional NRCS code found at 327 IAC 15-16-9 was updated in the proposed rule that was not originally updated in the draft rule. Updating editions of the NRCS is one of the purposes of this rulemaking. The following sections of the proposed rule are substantively different from the draft rule: 327 IAC 15-16-1, 327 IAC 15-16-2, 327 IAC 15-16-5, 327 IAC 15-16-6, 327 IAC 15-16-9, 327 IAC 15-16-10, 327 IAC 19-1-4, 327 IAC 19-8-4, 327 IAC 19-12-4, 327 IAC 19-12-5, 327 IAC 19-14-3, 327 IAC 19-14-4, 327 IAC 19-14-6. This notice requests the submission of comments on the sections of the rule listed above, including suggestions for specific amendments to those sections.

|            |   |                               |
|------------|---|-------------------------------|
| History:   | First Notice of Comment Period:   | January 20, 2016              |
|            | Notice of First Hearing:  | January 20, 2016              |
|            | Preliminary Adoption/First Public Hearing:  | May 11, 2016                  |
|            | Notice of Second Hearing:   | June 1, 2016                  |
|            | Third Notice of Comment Period:   | June 29, 2016 - July 20, 2016 |
| Inquiries: | Additional information regarding this rulemaking action can be obtained from Lauren Aguilar, Rules Development Branch, Office of Legal Counsel, (317) 234-8559, (800) 451-6027 (toll-free), or <a href="mailto:laguilar@idem.in.gov">laguilar@idem.in.gov</a> . |                               |
| Next Step: | <b>Public Hearing/Final Adoption</b><br>Final Adoption/Public Hearing tentatively scheduled for November 9, 2016 at 1:30 p.m., at the Indiana Government Center South, 302 West Washington Street, Conference Center Room A, Indianapolis, Indiana.             |                               |

## Final Rules (and Readoptions)

---

Currently, no IDEM related rules are posted within the Indiana Register (IR) for this grouping.

## Emergency Rules

---

Currently, no IDEM related rules are posted within the Indiana Register (IR) for this grouping.

Prepared by: Angela Taylor, Small Business Regulatory Coordinator